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## HIGH COURT OF CHHATTISGARH AT BILASPUR

**W.P.(S) No.2867 of 2007**

**PETITIONER** : Surendra Singh, S/o Shri Shivpujan Singh, Aged about 44 years, Block Coordinator, Rajiv Gandhi Shiksha Mission R/o P.W.D. Colony, Near Rest House, Pendra Road, Distt. Bilaspur (C.G.)

versus

**RESPONDENTS**

1. State of Chhattisgarh – Through the Secretary, Education Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector Bilaspur – cum – District Mission Director, Rajiv Gandhi Shiksha Mission, Sarva Shiksha Abhiyan, Bilaspur (C.G.)
3. The Chief Executive Officer, Zila Panchayat, Bilaspur (C.G.)

(Writ Petition under Article 226 of the Constitution of India.)

**Single Bench : Hon'ble Shri Satish K. Agnihotri, J.**

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Present : Shri P. Diwakar, Senior Advocate with Shri K.S. Pawar, Advocate for the petitioner.
Shri Yashwant Singh Thakur, Govt. Advocate for the respondents.

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**ORAL ORDER**
**(Passed on 9th May, 2007)**

By this petition, the petitioner has challenged the impugned suspension order dated 28.04.2007 (Annexure P/3). The petitioner was working as Block Co-ordinator, Rajiv Gandhi Shiksha Mission, Block – Marwahi, district – Bilaspur, being Head Master in Govt. Multipurpose Higher Secondary School, Pendra, district – Bilaspur when the impugned suspension order was passed.

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2. On perusal of the suspension order, it appears that the petitioner has been placed under suspension on account of alleged dereliction of duties and irregularities in Government work.

3. Learned counsel appearing for the petitioner impugns the order dated 28.04.07 on three grounds. Firstly, in the impugned suspension order there is no mention of contemplation of inquiry. Secondly, the officer passing the suspension order is not the disciplinary authority. Lastly, the officer passing the impugned order is not empowered in that behalf by the Governor.

4. Under Rule 9 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short 'the Rules, 1966') any employee can be suspended where the disciplinary proceeding against him is contemplated or is pending. Looking to the charges stated in the suspension order it is clear that a disciplinary proceeding is contemplated against the petitioner.

5. Reading of the provisions of Rule 9 makes it clear that any authority subordinate to the disciplinary authority or any other authority which is not in the channel of service, empowered on behalf of the Governor by general or special order, can place an employee on suspension. Other authority empowered by the Governor means not the authority in the channel of service of the petitioner or in deputation but other authority who has nothing to do with the functioning of the employee. Learned counsel, except making the bald statement, has not produced any other relevant document in support of his contention to establish the fact that the authority who has passed the suspension

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order was not dealing with the functioning of the employee and he was not empowered by the Governor by special or general order.

6. It is further provided in second proviso to Rule 9 (1) that where the order of suspension is made by any authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order is made.

7. In the case of State of Mysore Vs. M.H. Bellary, reported in AIR 1965 SC 868 and in Vidya Dhar Pande Vs. Vidyut Grih Siksha Samiti and Others, reported in AIR 1989 SC 341, question of termination was under consideration involving punishment with civil consequences. The Supreme Court in P.L. Shah Vs. Union of India, reported in AIR 1989 SC 985 has considered the nature of suspension and held as under:

> "An order of suspension is not an order imposing punishment on a person found to be guilty. It is an order made against him before he is found guilty to ensure smooth disposal of the proceedings initiated against him. Such proceedings should be completed expeditiously in the public interest and also in the interest and also in the interest of the Government servant concerned. xxx xxx xxx"

It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a

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> Government Servant, he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records. At this stage it in not necessary to go into the charges leveled against the petitioner because it may prejudice the case of the parties wherein the respondents are likely to initiate the departmental enquiry".

8. The impugned order clearly states that order of the suspension was reported to all the officers including the appointing authority vide (Annexure P/2) dated 28.04.07.

9. In the present case, the Chief Executive Officer Janpand Panchayat, Bilaspur has passed an order, which was approved by the Collector and District Mission Director. With regard to mentioning of contemplation of inquiry in the suspension order, the irregularities purportedly committed by the petitioner have been stated in the impugned suspension order, which clearly indicate that the inquiry was under contemplation. Rule 9 (2-a) and (2-b) take care of such situation where the enquiry has not been initiated within the 45 or 90 days, as the case may be.

10. The petitioner, without waiting for the charge sheet, as required in sub-rule (2) of Rule 9 of the Rules, 1966, straightaway has come to this Court. The petition is premature and at this stage the same cannot be entertained.

11. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences.

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Suspension means a temporary deprivation of the functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records.

12. Reliance of learned counsel on the order 22.06.06 passed by Writ Petition No.2918 of 2006 (V.K. Kesharwani Vs. State of Chhattisgarh and another). This Court has, in the order granting relief, observed that while passing the suspension order, there should be a clear statement that there is proposed inquiry under contemplation. The petitioner has not produced a copy of the final order, if any, passed in W.P. No.2918 of 2006.

13. As a result and for forgoing reasons, this petition is dismissed.

**Sd/-**
**Satish K. Agnihotri**
**Judge**

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